IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 15830 of 2004

Between:

T.Latha, d/o T.Ramachandra Reddy,
r/o H.No.19-12-215, Biragipatteda, Tirupathi,
Chittoor District.

..... PETITIONER

AND

1. Sri Venkateswara Institute of Medical Sciences, TTD, Tirupathi, rep., by its Director.

2. K.Bhavana, W/o.Sri T.Leelakrishna Kumar,

Aged about 23 years, Occ: Housewife, Narasingapuram

Village, Chandragiri Mandal, Chittoor District

.RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus declaring the action of the respondent in calling more number of candidates for counseling on 25-8-2004 contrary to the instructions contained in the call letter for screening test in Roc.No.CE/49/STSNSA/SVIMS/2004, dated 3-8-2004 as arbitrary, illegal and malafide and direct the respondent to adhere to the procedure contained in the call letter

Counsel for the Petitioner: MR.C.V.MOHAN REDDY

Counsel for the Respondent No.1: Ms.P.Sarada

Counsel for the Respondent No.2: MR.NUTY RAMA MOHANA RAO

The Court made the following :

ORAL ORDER:

The petitioner has filed this writ petition seeking a Mandamus to declare the action of the 1st respondent in calling more number of candidates for counselling on 25.8.2004 contrary to the instructions contained in the call letter in Roc.No.CE/49/STSNSA/SVIMS/2004, dated 3.8.2004 for screening test as arbitrary and illegal.

The brief facts that are necessary for the purpose of disposal of the writ petition may be depicted as follows:

The writ petitioner completed B.Tech. in Computer Science and Information Technology with distinction in the year 2003 from Jawarharlal Nehru Technological University, Hyderabad and thereafter, she completed I.B.M. Mainframe Course with Grade-A in July, 2003. In pursuance of the notification issued by the 1st respondent for various posts including the post of "Computer Programmer and System Analyst", the petitioner applied for the said post. About 500 candidates applied for the post along with the petitioner. The 1st respondent issued call letter vide proceedings dated 3.8.2004 to appear for screening test at 10:00 A.M. on

24.8.2004. According to the call letter, the screening test will be on 100 multiple choice questions based on standard of M.C.A. (3 years) Course. Duration of the test is one hour 45 minutes and merit list will be displayed on the same day after 5:00 P.M. It is further intimated that the first 3 candidates in the order of merit have to appear for counselling on 25.8.2004. There are no other rules governing recruitment to the said post. She attended the test on 24.8.2004 along with other candidates and on the same day the merit list was prepared. She stood first in the merit list as she got 44 marks. On the next day, she appeared for counselling. At that time, she came to know that the 1st respondent called the first 6 candidates in the merit list instead of the first 3 candidates for counselling. She understood that for all other posts only first 3 candidates are called for counselling and the first candidate was selected. Therefore, the action of the 1st respondent in calling more number of candidates than prescribed in the letter, dated 3.8.2004 is arbitrary and illegal. The counselling is not an interview/personality test, but is conducted only for the purpose of verification of certificates with regard to qualification and experience. When she made enquiries, she came to know that in order to favour a less meritorious candidate in the merit list, the authorities have called more number of candidates for counselling and the 6th candidate in the merit list is likely to be appointed due to extraneous considerations. The action of the 1st respondent is contrary to the instructions contained in the call letter and the same is illegal. Hence, this writ petition has been filed.

The 1st respondent filed counter affidavit stating that the petitioner stood first out of 31 candidates and communication was sent to all the eligible applicants requiring them to appear on 24.8.2004 at 10:00 A.M. for screening test. It is admitted that the first 3 candidates in the order of merit have to appear for counselling on 25.8.2004. “Conducting the screening test on 24.8.2004, displaying the merit list of all the candidates on the same day, conducting the counselling on the very next day of “Verification of eligibility for the post and original certificates etc.” – all only to avoid extraneous influences to be totally

transparent and to have a suitable candidate for the post". To judge the eligibility for the post among the three candidates, an eminent Professor in Computer Sciences from S.V. University was invited. He was provided with a copy of the advertisement and merit list of the screening test. It is mentioned that persons having experience and qualification of B.Tech. will be given preference. The expert Professor examined the first 3 candidates who were called for counselling about their eligibility and none of them have practical knowledge in computer programming and system analysis of the Institute. He informed the same to the Committee. Therefore, the Committee decided to call the next three candidates. The expert Professor, after examining the next three candidates found that Ms.K.Bhavana, who passed B.Tech. Degree in first class with good working knowledge in programming and system analysis of the Institute was suitable to the post and therefore, she was selected. Therefore, the action of the 1st respondent in selecting the candidates whose eligibility in the course as indicated in the call letter was duly judged by the competent Professor is fair. It is only in the interest of the organisation and not to favour anybody. The petitioner has no experience and no knowledge of computer programming and system analysis whereas the selected candidate is having two years experience and good knowledge in operating the system of the Institute. It is true that the counselling is not an interview/personality test, but is conducted to verify the eligibility for the post and for verification of the original certificates and experience. Even though the petitioner stood first, she does not have any right whatsoever to demand for the post because she stood first in the screening test. The petitioner did not submit any experience certificate. The 1st respondent has followed the procedure not giving even scope for extraneous considerations. Hence, the writ petition may be dismissed.

The petitioner filed reply affidavit stating that though the entire process was sought to be completed within two days, but purportedly, with a view to maintaining transparency, the same is absolutely lacking. It is false that the petitioner has no knowledge in

computer programming and system analysis in the institute. No questions with regard to the computer programming and system analysis of the institute were put to her except verifying the certificates produced by her. The other two candidates, according to her understanding, were not questioned on their practical experience. It is not known as to how the experience in computer programming and system analysis of the institute would be acquired by a candidate without working in the institute. According to her, she completed six months course in IBM Main frame Application Programming. It is false that as the first 3 candidates are not eligible, the committee decided to call the next three candidates for interview. It is made clear to all candidates that only the first three candidates will be considered and no other candidates were present at the time of counselling. It is further stated that the candidates who stood at Sl.No.6 i.e. the 2nd respondent herein came to the interview hall at 12:00 P.M. and was closeted with the committee, counselling the candidates. Thereafter, things moved swiftly and she understood and believed the same to be true that the minutes recorded in the note file that she was selected and her name was struck off and the name of the 2nd respondent was inserted. If the note file relating to the selection process is screened, it would show about the manipulation. The 4th and 5th candidates did not attend the counselling, as they were not present. Even the 2nd respondent was not present. He came there about half an hour after the counselling was over. Therefore, the entire process clearly indicated that the 1st respondent was indulged in manipulation so as to favour the 2nd respondent. Therefore, she prays to allow the writ petition.

Sri C.V.Mohan Reddy, learned senior counsel for the petitioner has contended that in the call letter, it is made clear that as per the merit list only the first 3 candidates will be called for counselling and it is not known how the other candidates came to the counselling. The order of appointment of the 2nd respondent is contrary to the provisions laid down in the call letter for screening test, dated 3.8.2004 and the

petitioner is an Engineering Graduate with distinction, but with a view to helping the 2nd respondent for extraneous reasons, the appointment was given and therefore, he prays to allow the writ petition.

Ms.P.Sarada, learned counsel for the 1st respondent has contended that the first 3 candidates were not found to be suitable for the system that was available with the institute. The committee decided to call for the next three candidates as the 2nd respondent was well versed with the Unix System which was available with the institute, and she was appointed and no other favour was done to her for any extraneous reasons. Therefore, the writ petition is devoid of merit.

The learned counsel for the 2nd respondent has contended that the requisite qualification is M.C.A, and candidates who possess B.E. and B.Tech. in Computer Science will be given preference. The post for which the 1st respondent advertised is a Programmer and System Analyst. As the merit list was displayed on the evening of 24.8.2004, there was possibility for the candidates to appear on the next day and therefore, the appointment of the 2nd respondent is not contrary to the notification and hence, he prays to dismiss the writ petition.

For filling up of various posts in the 1st respondent-Institute, applications were invited from the eligible persons as were notified in the Hindu, dated 9.6.2004. One post among them is Computer Programmer and System Analyst. The qualifications for the said post are M.C.A with experience in programming and system analysis, and persons having B.E/B.Tech. in Computers are preferred. The petitioner completed her graduation in B.E. and B.Tech. first class with distinction in Computer Science and Information Technology in April, 2003. Though the notification does not indicate that a Computer Programmer and System Analyst must have knowledge with the systems of the institute, but it is deemed that such Computer Programmer and System Analyst must have knowledge in computer

programming and system analysis of the Institute. Systems vary from institute to institute. There is no point in selecting a person who does not have experience in the system of a particular institute. Therefore, in my considered opinion, the Computer Programmer and System Analyst, as advertised by the 1st respondent would mean that such a person must be acquainted with the system of the 1st respondent-institute. As seen from the material available on record, it is clear that the 1st respondent-institute is having Unix system. Unless a person is having experience in the Unix system, he cannot operate it. Though in the call letter, it is made clear that merit list will be displayed on 24.8.2004 after 5:00 P.M., it is also made clear in the call letter that the appointment will be purely according to order of merit in the screening test. The first 3 candidates in the order of merit have to appear for counselling on 25.8.2004. On verification of eligibility for the post and the original certificates, etc. the post will be filled up. This screening test does not preclude the 1st respondent from calling the next three candidates in case the first 3 candidates found to be not eligible. As the merit list has been displayed after 5:00 P.M., it is nothing unnatural for the next three candidates in the merit list to be present on the next day. Therefore, the main presence of the next 3 candidates does not indicate any suspicion in regard to the matter of appointment of 6th candidate. The contention that the counselling to be held on 25.8.2004 is only for the purpose of verification of original certificates cannot be accepted because it is made clear in the call letter that on verification of the eligibility for the post and original certificates, the post would be filled up. Therefore, it is the eligibility for the post of Computer Programmer and System Analyst and the practical knowledge in the system of the institute that has to be ascertained and for that purpose an eminent Professor in the Computer Sciences from S.V. University was invited. He was provided a copy of the advertisement and merit list of the candidates for the screening test. The expert Professor, after examining all the first 3 eligible candidates found that none of them were having practical knowledge in computer programming and system analysis

of the institute. He informed the same to the committee consisting of Executive Officer, Tirumala Tirupathi Devasthanam (T.T.Ds.), the Director of Sri Venkateswara Institute of Medical Science (SVIMS), the Dean and the Registrar of S.V.I.M.S and the Deputy Executive Officer (Services) from T.T.Ds. Therefore, the committee decided to call for the next three candidates for counselling. As the expert Professor found that the sixth candidate i.e. the 2nd respondent herein was only having good working knowledge in computer programming and system analysis of the institute, she was selected.

Therefore, the procedure adopted by the 1st respondent in selecting a person having working knowledge in programming and system analysis of the institute cannot be said to be on extraneous reasons so as to do favouritism to the 2nd respondent. Several allegations have been made that records have been manipulated and 4th and 5th candidates did not attend the counselling, and even the 2nd respondent came to the interview hall at 12:00 P.M., and she closeted with the committee, counselling candidates and therefore, things moved swiftly and the 1st respondent indulged in manipulation so as to favour the 2nd respondent are said to have been made for the first time on 19.11.2004. These allegations were not attributed to the 1st respondent when this writ petition was filed on 2.9.2004. After a lapse of two months, the petitioner came up with these allegations. In the first instance, there was no allegation against the committee or the expert Professor. Except a bald statement in the affidavit filed by the petitioner, dated 2.9.2004 that the 6th candidate in the merit list is likely to be appointed due to extraneous considerations, no other motives are attributed to the expert of the subject nor any one of the committee members. The 1st respondent also produced necessary papers for a perusal of this Court. Though the selection procedure in respect of selection of the candidates exhibited in the record sheets that does not indicate any suspension with regard to the appointment of the 2nd respondent. In the absence of any specific allegation

against the expert of the subject who has decided the competency and eligibility criteria of the 2nd respondent, it cannot be said that the appointment made to the 2nd respondent is illegal and arbitrary.

Having regard to the facts and circumstances of the case, I am of the considered opinion that the order under challenge does not suffer from any incurable legal infirmities nor is contrary to the instructions issued in the call letter, dated 3.8.2004. I do not find any merit in this writ petition.

The writ petition is accordingly dismissed. The interim stay granted by this Court on 3.9.2004 shall stand vacated. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

22nd December, 2004.

bcj

To

1. Sri Venkateswara Institute of Medical Sciences, TTD, Tirupathi, rep., by its Director.

2 Two C.D. copies